IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

WEDNESDAY, THE 11TH APRIL 2007 / 21ST CHAITHRA 1929

WP(C).No. 28719 of 2006(R)

PETITIONER:

V.P.PRAKASH,
'VENATT HOUSE', PUNCHAVAYAL P.O.,
MUNDAKAYAM,
KOTTAYAM.

BY ADV. SRI.DEVAN RAMACHANDRAN
SMT.T.G.SEETHAL

RESPONDENTS:

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1. THE KERALA PUBLIC SERVICE COMMISSION,
REP. BY ITS SECRETARY,
OFFICE OF THE KERALA PUBLIC SERVICE COMMISSION,
THIRUVANANTHAPURAM.

2. THE JOINT SECRETARY,
DEPARTMENT TEST EXAMINATION WING,
KERALA PUBLIC SERVICE COMMISSION,
PATTOM, THIRUVANANTHAPURAM.

BY SC SHRI. P.C. SASIDHARAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29/03/2007, THE COURT ON 11/4/2007 DELIVERED THE FOLLOWING:

K.K. DENESAN, J.

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W.P.(C) No. 28719 OF 2006 R
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Dated this the 11th April, 2007

J U D G M E N T

The petitioner is working as Senior Superintendent in the Kerala State Electricity Board (KSEB for short). He joined the service of the KSEB in the year 2001. Prior to that he had worked in the Local Fund Audit Department as Auditor II Grade. While working in the Local Fund Audit Department, he had appeared for the departmental examination in Account Test (Lower) (hereinafter referred to as the General Account Test) conducted by the 1st respondent-Commission and passed the same in the year 2000.

2. It is contended that the petitioner is eligible to get promotion from the post of Senior Supdt. to that of Assistant Accounts Officer, KSEB. A pass in Account Test (Lower) for Ministerial and Executive Staff of the KSEB which consists of four papers, is obligatory for promotion. The petitioner had passed Papers 1, 2 and 4 in the examination conducted by the 1st respondent-Commission in the General Account Test (Lower). He has secured a pass in the 3rd paper for Account Test (Lower)

for the Ministerial and Executive Staff of the KSEB. On the strength of the qualification thus acquired by him, he filed an application before the 1st respondent-Commission requesting to certify that he has passed all the papers for the departmental examination in Account Text (Lower) for the Ministerial and Executive Staff of the KSEB. The 1st respondent-Commission as per Ext. P4 letter dated 25-9-2006 refused to entertain the application of the petitioner treating it as defective on the ground that he had not passed the 4th paper prescribed for Account Test (Lower) for the Ministerial and Executive Staff of the KSEB. Feeling aggrieved, this writ petition has been filed.

3. The petitioner has prayed for a writ of certiorari quashing Ext. P4 and for a direction to the 1st respondent to issue the certificate which he had applied for.

4. According to the petitioner, the papers and the subjects passed by him in the General Account Test (Lower) and the Account Test (Lower) for the Ministerial and Executive Staff of the KSEB taken together will show that he has secured a pass in all

the subjects under Papers 1 to 4 of Account Test (Lower) for Ministerial and Executive Staff of the KSEB.

5. In the counter affidavit filed on behalf of the 1st respondent, the above claim of the petitioner is denied stating that the examinations passed by the petitioner will not enable him to get the certificate applied for, namely, that he has passed Account Test (Lower) for the Ministerial and Executive Staff of the KSEB, because, the subjects to be passed as also the syllabi for the above test are entirely different from that of the General Account Test (Lower).

6. Heard counsel for the petitioner and counsel for the respondents.

7. The General Account Test (Lower) as also Account Test (Lower) for KSEB consists of 4 papers. The syllabi for the General Account Test (Lower) are as shown below:

"The Kerala P.W.D. Manual and additions amendment to it from time to time (with books).

1. Kerala Service Rules (With books)

2. Kerala Financial Code Volumes I and II and Kerala Budget Manual (With books).

3. Kerala Account Code Volume I (With books) and Introduction to the Indian Government Accounts and Audit (V Edition except Chapter 12, 26, 27, 28 and 29) (Without books).

4. The Kerala Treasury Code Volumes I and II and the Kerala Budget Manual (With books).”

The syllabi for Account Test (Lower) for KSEB are as shown below:

“1. Kerala Service Rules (With books).

2. Kerala Financial Code Volumes I and II and the Kerala Budget Manual (With books).

3. Elements of Commercial Accounts Book-Keeping- All Chapters except Chapters XIII and XV dealing in Partnership Accounts and Company Accounts respectively of the Books Double Entry Book-keeping by Jamshed R. Batliboi.

4. Kerala Account Code Volume I and Kerala Treasury Code Volume I (With books).”

The petitioner had passed papers 1 to 4 of the General Account Test (Lower) even before he commenced his service in KSEB. He appeared for paper 3 of the Account Test (Lower) for KSEB after joining the service of the KSEB and has secured a pass. Paper 3 above mentioned, is not included in the syllabi for General Account Test (Lower). The respondents have no quarrel that a pass in Papers 1 and 2, namely, Kerala Service

Rules (with books) and Kerala Financial Code Volumes I and II and Kerala Budget Manual (with books) for General Accounts Test (Lower) will suffice for the purpose of a pass in Kerala Service Rules (with books) and Kerala Financial Code Volumes I and II and Kerala Budget Manual (with books) shown as papers 1 and 2 for Account Test (Lower) for KSEB also. Therefore, the claim of the petitioner that he shall be deemed to have passed Papers 1 and 2 of Account Test (Lower) for KSEB is admitted by the respondents also. It is not in dispute that the petitioner has passed Paper 3, namely, Elements of Commercial Accounts Book-Keeping for Accounts Test (Lower) for KSEB. The dispute boils down to the claim of the petitioner that he shall be deemed to have passed the 4th Paper for Account Test (Lower) for KSEB. The subjects or syllabi for the 4th Paper for Account Test (Lower) for KSEB are (i) Kerala Account Code Volumes I and (ii) Kerala Treasury Code Volume I (with books). I find merit in the contention of the petitioner that by passing the 3rd paper of General Account Test (Lower) he has passed the test in Kerala Account Code Volume I for the purpose of the 4th Paper

for Account Test (Lower) for KSEB also. Similarly, I find merit in the contention of the petitioner that by passing the 4th Paper for General Account Test (Lower) he shall be deemed to have secured a pass in Kerala Treasury Code Volume I which is included in the syllabi for the 4th Paper of Account Test (Lower) for KSEB also. A pass in Papers 3 and 4 of General Account Test (Lower) cannot be secured without studying the Kerala Account Code Volume I and the Treasury Code Volume I and without appearing for the examination in the above subjects. In fact, the petitioner has secured a pass in the additional subjects also, namely, Introduction to the Indian Government Accounts and Audit, Kerala Treasury Code Volume II and Kerala Account Code Volume II, besides securing a pass in all the common subjects/syllabi and the 3rd paper of Account Test (Lower) for KSEB. The apparent difference in the arrangement in which the subjects coming under Papers 3 and 4 of the two tests have been grouped, cannot be given undue importance. Except the vague statement made by the respondents in the counter affidavit that the subject and the syllabi are different, no attempt

is made to demonstrate or substantiate the said contention with the aid of materials, if any. Except the additional subject for Paper 3 of Account Test (Lower) for KSEB, Papers 1 to 4 of the General Account Test (Lower) take within their fold, not only all the subjects prescribed for the Account Test (Lower) for KSEB but the additional papers also. Hence, in substance, the petitioner has acquired a pass in all the subjects prescribed for Account Test (Lower) for KSEB. This is the cumulative effect of passing the papers referred to above. To hold otherwise, looking merely at the form or the arrangement of the subjects or syllabi under the respective papers, will result in a failure of justice. A pass in the departmental test is insisted to ensure that the officer has got the required knowledge in certain subjects which have got a bearing on the discharge of his official duties. Hence, a positive construction keeping in mind the object and purpose of the test is called for. Pedantic or technical approach will defeat the ends of justice. I have no hesitation to repel the contentions urged on behalf of the respondents.

8. In the result, Ext.P4 is quashed. The respondents are directed to certify that the petitioner has passed the Account Test (Lower) for the Ministerial and Executive Staff of the KSEB. Appropriate certificate shall be issued to the petitioner within three weeks from the date of receipt of a copy of the judgment.

The writ petition is allowed as above.

K.K. DENESAN
JUDGE

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